

HATCH ACT HEARINGS

The question of whether the Hatch Act should be amended to allow the nation's 2.8 million federal Civil Service and postal workers to engage in political activity was the subject of congressional hearings April 8-9. But the debate over proposed liberalization of the 36-year-old statute instead brought forth a nearly unanimous call for strengthening of existing protections against political coercion within government service.

The hearings were conducted by the House Post Office and Civil Service Subcommittee on Employee Political Rights and Intergovernmental Programs.

Spokesmen for federal employee groups joined forces in urging Congress to provide "Hatched" workers more effective protections from improper political influence and to improve administration of these safeguards by the Civil Service Commission.

Witnesses also agreed on the need for a precise statement of the political activities to be allowed under any new legislation governing federal workers. Existing proscriptions against political activity were incorporated not only in the Hatch Act but in more than 3,000 regulations and informal rulings of the Civil Service Commission.

But the employee groups broke ranks over the desirability of opening the way for active political involvement by Civil Service and postal workers. While supporters claimed it was time to free these workers from their status as "second class citizens," opponents objected that liberalization of the existing law would mark a return to the "spoils" system that gave rise to the Hatch Act in 1939.

Focal point of the House subcommittee hearings was legislation (HR 3000) offered by Subcommittee Chairman William (Bill) Clay (D Mo.) to amend the Hatch Act (Sec. 7321-7327, Title 5, U.S. Code). HR 3000 would authorize federal employees to participate in "political management or in political campaigns," actions banned under the Hatch Act.

In repealing the prohibitions, the bill would define the meaning of the phrase to permit federal and postal workers to participate in political conventions, distribute campaign literature, wear campaign badges, run for political office and take part in other political activities. The bill would continue existing protections and add a requirement that violations be referred to the Justice Department for prosecution. If the department did not prosecute, the attorney general would be required to file a report with Congress.

The current congressional drive to reform the Hatch Act dates from 1966 when the Commission on Political Activity of Government Employees was appointed by Congress to study the laws limiting or discouraging the participation of federal workers in political activities. The commission's recommendations were included in HR 3000. (*Background, Congress and the Nation Vol. II, p. 658*)

In recent years, legal challenges to the constitutionality of the Hatch Act resulted in several lower court decisions which would have repealed the statute. But the Supreme Court in June 1973 overturned one of those decisions (*U.S. Civil Service Commission v. National Association of Letter Carriers*) and held, 6-3, that it was "essential that federal service should depend on meritorious performance rather than political service." The high court's decision, however, left open the way for Congress to "strike a different balance than it has if it chooses."

Supporters of the drive to repeal the political prohibitions of the Hatch Act contended at the hearings

that the statute verges on, if it does not constitute, an unconstitutional infringement of the right to free speech and association. They argued that it encourages federal workers to "play it safe" by refraining from political activity altogether. Moreover, members of federal labor groups said the statute inhibited their efforts to elect officials sympathetic to their views.

At issue, however, is whether federal employees could be allowed to participate in political activities without inviting new abuses such as appeared prior to enactment of the Hatch Act. Civil Service Commission Chairman Robert E. Hampton opposes efforts to broaden political rights of federal workers. He has said such revisions in the law could make advancement in the Civil Service dependent on political considerations.

But supporters of HR 3000 contend that safeguards could be written into the legislation. They call for provisions to deter and strictly punish offenders.

The corruption of Watergate and the Malek Plan, proposed during the Nixon administration, that would have sought to politicize the Civil Service were cited in testimony by Nathan T. Wolkomir, president of the National Federation of Federal Employees, as reasons for retaining the Hatch Act's ban on political activity. Wolkomir urged "maintenance of the strength and integrity of the law and rejection of proposals which would or could have the effect of weakening it."

ACTION AGENCY OVERSIGHT

Controversy over personnel practices at the ACTION volunteer service agency erupted during congressional oversight hearings April 9-10 despite the oversight committee's attempt to concentrate on the narrower question of whether certain ACTION programs should be transferred to another federal agency.

The hearings were conducted by the House Education and Labor Subcommittee on Equal Opportunities.

Michael P. Balzano Jr., ACTION's director, defended the agency's personnel practices and denied charges that it circumvented Civil Service regulations to replace career ACTION employees with Nixon and Ford administration loyalists.

Joseph F. Bass Jr., president of an ACTION employees' union, cited cases of political job discrimination from a 77-page petition filed with the Civil Service Commission in January charging illegal firings and downgradings.

On April 14 a confidential Civil Service Commission investigation critical of ACTION's personnel practices was made public. The investigation had been completed in October 1974. Another was initiated in January 1975 following the filing of the ACTION employees' petition.

Panels of witnesses representing various ACTION volunteer programs also were critical of Balzano's administration of the agency, although they generally opposed transferring their programs.

The hearings grew out of a proposed amendment to the Older Americans Act (S 3922) to transfer two ACTION programs—the Retired Senior Volunteers Program (RSVP) and Foster Grandparents—to the Administration on Aging in the Department of Health, Education and Welfare. The amendment was generated by dissatisfaction among subcommittee members with Balzano's testimony before the House Education and Labor Subcommittee on Education in February. The proposal was dropped pending a report on the equal opportunities subcommittee hearings.